CF 1002

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, (C.G.)

W.P. (C) No. 4587 /2006

PETITIONER:

M/s. Arihant Industries
(A Partnership Firm)
Duly registered under the
Indian Partnership Act, 1932
Vide Registration No. 74/05-06, at Plot no. 30-C and 30-D,
Sirgitti Industrial Area,
Sector-A, Bilaspur (C.G.)

P.R. No. 4606/06
Presented by Shri Sushil Shukla
dated 22/8/06

VERSUS

RESPONDENT:

Chhattisgarh State Industrial
Development Corporation
Limited, (A Government of
Chhattisgarh Undertaking),
A company registered and
Incorporated under Indian
Companies Act, 1956,
Represented through the
Managing Director,
Ground Floor, L.I.C.
Commercial Complex,
Pandri, Raipur.

OATH COMMISSIONER
APARNA MALVIYA
CG-2073/96
20/09/06
Bilaspur Chhattisgarh

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS OF MANDAMUS AND CERTIORARI AND FOR OTHER SUITABLE WRITS AND DIRECTIONS: -

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI V.K. SHRIVASTAVA, J.

W.P.(C) No. 4567of 2006

PETITIONER M/s. Arihant Industries
(A Partnership Firm)
Duly registered under the Indian Partnership Act, 1932 Vide Registration No. 74/05-06, at Plot no. 30-C and 30-D, Sirgitti Industrial Area, Sector-A, Bilaspur (C.G.)

VERSUS

RESPONDENT Chhattisgarh State Industrial Development Corporation Limited, (A Government of Chhattisgarh Undertaking), A company registered and Incorporated under Indian Companies Act, 1956, Represented through the Managing Director, Ground Floor, LIC Commercial Complex, Pandri, Raipur.

Present: Shri Kanak Tiwari, learned Sr. Advocate with Shri Prateek Sharma, learned counsel for the petitioner.

Shri Ayaz Naved, learned counsel for respondent.

ORAL ORDER
(Passed on13th November, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

In this writ petition, order No. CSIDC/MKD/PS-iv/06/2723-24, Raipur, dated 27-07-2006 of the Chhattisgarh State Industrial Development Corporation Limited (for short "the Corporation"), the respondent herein, withdrawing the rate contract No. PS-iv/027/MKD/08901/05-06/230/HPS/AI/246 dated 28-04-2006 issued by the respondent-Corporation in favour of the petitioner and directing the respondent not to receive/execute any order received from direct demand officer against the aforesaid rate contract, is assailed. Amongst other grounds, the impugned action is assailed on the ground that the rate contract has been withdrawn in utter violation of principles of natural justice and without giving any opportunity to the petitioner to have its say in the matter.

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Opposing the writ petition, return is filed by the respondent-Corporation. We have perused the petition averments and also averments made in the return. What emerges from the pleading of the parties is that the Chairman of the Corporation has received a complaint from a rival trader alleging that the petitioner on the date the contract was awarded to it did not possess required certificate of registration, and conducted an enquiry behind the back of the petitioner and came to the conclusion that the petitioner lacks essential qualification for awarding rate contract. Specific allegation is made in the writ petition that the impugned order was passed without notice to the petitioner and without giving any opportunity to have a say in the matter, which allegation is not denied at all in the return. It is true that if an authority terminates an ordinary contract on the ground of breach of terms and conditions of the contract, generally speaking, notice before terminating such contract is not insisted by the Court. It is not one such case. It is not the case of the Corporation that the records of the Corporation themselves or the Corporation itself found breach of terms and conditions of the contract. Admittedly, the impugned action was taken in pursuance of an allegation made by a trade rival. In that view of the matter, the principle of fairness required the Corporation to atleast issue a notice to the petitioner bringing it to its notice the allegation made by a rival trader and to give it an opportunity to meet that allegation.

In the course of hearing, Shri Kanak Tiwari, learned Sr. Counsel for the petitioner drew our attention to what is stated in para 10 of the counter. He would contest the conclusion reached by the Chairman about the petitioner in not possessing the required certificate of registration. If the petitioner was to be given an opportunity of being heard, Shri Kanak Tiwari would state, it would have explained to the Corporation about the falsity of the allegation. He submits that there is no substance in the allegation made by rival trader and it was baseless. There is no need for us to undertake the adjudication of the issue whether the petitioner had possessed certificate of the registration as on

relevant date or not, and it is for the Corporation to decide after giving a fair opportunity to the petitioner to have its say in the matter.

In the result, we allow this writ petition and quash the impugned order. No cost. This order shall not come in the way of Corporation from issuing notice to the petitioner on the basis of allegation levelled by a rival trader against the petitioner and taking appropriate action in accordance with law after giving fair opportunity to the petitioner to have its say in the matter.

Sd/-
Chief Justice

Sd/-
V.K. Shrivastava
Judge

Kamde